

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEWAYNE THOMPSON,

Plaintiff,

v.

L. ADDISON,

Defendant.

Case No. 1:22-cv-01545-JLT-HBK (PC)

ORDER DENYING PLAINTIFF'S MOTION
TO COMPEL AS MOOT AND DENYING
PLAINTIFF'S MOTION FOR SANCTIONS

(Doc. No. 46)

Pending before the Court is Plaintiff's Motion to Compel and Motion for Sanctions filed on February 14, 2025. (Doc. No. 46). Defendant filed an Opposition and Declaration of Counsel on March 5, 2025. (Doc. No. 47).

Plaintiff seeks an order compelling Defendant to provide a verification to Defendant's responses to Plaintiff's first set of interrogatories. (*Id.* 2-3). Plaintiff further requests that the Court impose sanctions, to include a finding of contempt and/or entry of default judgment, for Defendant's failure to return the verification page. (*Id.* at 3-4). In response, Defendant acknowledges that due to a clerical error Defendant's verification page to Defendant's responses to Plaintiff's first set of interrogatories was delayed. (Doc. No. 47 at 1). Defendant affirms that the verification has been provided to Plaintiff, the delay in providing Plaintiff with a signed verification page was inadvertent and not done in bad faith, and Plaintiff suffered no prejudice due to the delay. (*Id.* at 3, 7, ¶ 6).

1 The Court finds Defendant's failure to timely provide a verification page to Defendant's
2 answers to Plaintiff's first set of interrogatories was due to clerical error. Because Defendant has
3 now provided a verification page such that any responses are under oath consistent with Fed. R.
4 Civ. P. 33(b)(3), the Motion to Compel is moot. Further, because the delay was not due to bad
5 faith and Plaintiff has suffered no prejudice from the delay, the Court finds sanctions are not
6 justified. *See Hyde & Drath v. Baker*, 24 F.3d 1162, 1171 (9th Cir. 1994).

7 Accordingly, it is hereby **ORDERED**:

- 8 1. Plaintiff's Motion to Compel (Doc. No. 46) is DENIED as MOOT.
- 9 2. Plaintiff's Motion for Sanctions (Doc. No. 46) is DENIED.

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11 Dated: March 18, 2025


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE